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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/745,006	12/20/2000	Barbara O. Sauer	KCC-14,083	7226

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Mark E. Fejer  
Pauley Petersen Kinne & Fejer  
Suite 365  
2800 W. Higgins Road  
Hoffman Estates, IL 60195

EXAMINER

REICHLER, KARIN M

ART UNIT	PAPER NUMBER
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3761

DATE MAILED: 10/10/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/745,006

Applicant(s)

SAUER, BARBARA O.

Examiner

Karin M. Reichle

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 25 July 2002.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 2-7 and 9-18 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 2-7 and 9-18 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☒ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                  | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____  |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)         | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ | 6) <input type="checkbox"/> Other:  |

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1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 6-20-02 has been entered.
2. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.
3. Claims 2-7, 9-14 and 18 are rejected under 35 U.S.C. 102(b) as being anticipated by Foreman '677.

See Figures 1 and 3, column 1, lines 55-60, column 3, lines 22-55, column 5, lines 61-68, column 7, lines 1-29, column 8, lines 42-63, column 9, lines 65 e t seq, column 10, line 54 - column 11, line 12, column 12, lines 21-42, column 13, lines 15-35, column 14, lines 58-62 and thus column 7, lines 31-39 of Buell, column 15, line 11 - column 16, line 25. With regard to claims 3 and 9, see cited portions supra discussing pleats, i.e. pleats disposed along pocket edge, i.e. 266, not 66, which is contractible and stretchable in the transverse direction of the diaper, i.e. pleats which are oriented in a longitudinal direction of the article. With regard to claim 18, it is noted that direct attachments of the edges to the liner are not required. Even if such were required, see col. 6, lines 9-18, 21-25 and col. 12, lines 24-28, i.e. cuff 262 underlies cuffs 62 and extends along the entire end edge, i.e. ends 272 coextensive with the periphery of diaper and seal extends along edges, i.e. opposed peripheral edges attached to liner.

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4. Claims 15-17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Foreman in view of Igaue et al.

Applicants claim forming a multilayer material of rectangular configuration, removing portions, i.e. producing a hourglass configuration, and forming pleats in the flap sheet proximate the back region. The Foreman patent does not teach the rectangular configuration or removing portions, i.e. forming an hourglass configuration, steps. However, see column 3, line 60-col. 4, lines 12 and Figures 7-8 of Igaue et al. To employ a rectangular material which has a portion removed to create an hourglass shape as taught by Igaue et al on the Foreman device would have been obvious to one of ordinary skill in the art in view of the recognition that such would provide more efficient manufacture, i.e. easier to align rolls of material and shape than align already shaped material, and the desirability of efficiency in manufacture of any article. In so doing, since the flaps are attached prior to be removing step, upon definition and identification of the portion of the material which is the rear portion, i.e. removing portions, attachment of tabs steps etc, the pleats in the flap sheet are necessarily "formed" in the region they are proximately attached to, i.e. the rear portion. The claims do not require pleating an unpleated flap sheet after removing the portions step.

5. Applicant's arguments have been carefully considered but are drawn to the cuffs 56 not cuff 262 which is the flap sheet which forms the pocket as claimed, i.e the arguments are not consistent with the prior art as applied in the rejections.

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6. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The Sayama device includes a sheet with longitudinal pleats.

7. Any inquiry concerning this communication should be directed to K. Reichle at telephone number (703) 308-2617. The Examiner's regular work schedule is Monday-Thursday.

K. Reichle  
October 2, 2002

*K. Reichle*  
K. Reichle  
Patent Examiner